

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. CSB-A-0746
Time Warner Cable)	
)	Fountain Valley, CA (CA0752)
Appeal of Local Rate Order of)	
Public Cable Television Authority)	Huntington Beach, CA (CA0751)
)	Stanton, CA (CA0932)
Setting Basic Service Rates in 4 California)	
communities)	Westminster, CA (CA0750)

ORDER

Adopted: December 22, 2005

Released: December 23, 2005

By the Deputy Chief, Policy Division, Media Bureau:

1. On September 9, 2005, Time Warner Cable ("TWC") filed an appeal of a local rate order adopted by the Public Cable Television Authority ("PCTV") on August 10, 2005.¹ The Communications Act provides that, where effective competition is absent, cable rates for the basic service tier ("BST") are subject to regulation by franchising authorities.² Prior to filing its appeal, TWC challenged PCTV's certification to regulate TWC's BST rate in a petition asserting that TWC is subject to effective competition.³

2. On October 4, 2005, the Media Bureau issued an order finding that TWC is subject to effective competition in the communities referenced herein.⁴ A finding of effective competition exempts a cable operator from rate regulation.⁵ The PCTV's certification to regulate BST rates in the referenced communities was revoked.⁶

3. In its appeal of the local rate order, TWC argues that the PCTV's certification to regulate TWC's BST rates in the referenced communities should be revoked as of the effective competition petition filing date. Our records indicate that TWC filed the relevant effective competition petition on November 17, 2004. The PCTV order was adopted on August 10, 2005 and addressed TWC's 2005-2006 rates, a period beginning after the effective competition petition was filed.

4. The Commission has previously recognized the filing date of a petition submitted in support of a finding of effective competition as the effective date that a cable operator is subject to

¹ The local rate order was effective in the following California communities: Fountain Valley (CA0752), Huntington Beach (CA0751), Stanton (CA0932) and Westminster (CA0750).

² 47 U.S.C. § 543(a)(2).

³ Time Warner's petition for a finding of effective competition was filed on November 17, 2004.

⁴ See *Time Warner Entertainment - Advance/Newhouse Partnership d/b/a Time Warner Cable, Petition for Determination of Effective Competition in Nineteen California Franchise Areas*, DA 05-2642, __ FCC Rcd __ (MB, released October 4, 2005) ("*TWE-AN Order*").

⁵ See 47 C.F.R. §76.905.

⁶ See *TWE-AN Order* at ¶ 12.

effective competition.⁷ We do so here as well. The revocation of certification removed the PCTV's jurisdiction to issue the rate order under appeal here. Accordingly, the PCTV's rate order with respect to TWC for the communities identified herein is without force or effect.

5. Accordingly, **IT IS ORDERED** that the Appeal of Time Warner Cable from the August 10, 2005 rate order issued by the Public Cable Television Authority **IS GRANTED** to the extent indicated herein and the local rate order **IS HEREBY VACATED AND SET ASIDE**.

6. This action is taken pursuant to authority delegated by § 0.283 of the Commission's rules.⁸

FEDERAL COMMUNICATIONS COMMISSION

John B. Norton
Deputy Chief, Policy Division
Media Bureau

⁷ See *Alert Cable T.V. of North Carolina, Inc.*, 19 FCC Rcd 80, 81 (MB 2004); *Falcon Cablevision*, 12 FCC Rcd 8229, 8234 (CSB 1997); *Rifkin & Associates, Inc.*, 17 FCC Rcd 14233, 14234 (2002).

⁸ 47 C.F.R. § 0.283.